

NOTICES OF SUPPLEMENTAL PROPOSED RULEMAKING

After an agency has filed a Notice of Proposed Rulemaking with the Secretary of State's Office for *Register* publication and the agency decides to make substantial changes to the rule after it is proposed, the agency must prepare a Notice of Supplemental Proposed Rulemaking for submission to the Office, and the Secretary of State shall publish the Notice under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.). Publication of the Notice of Supplemental Proposed Rulemaking shall appear in the *Register* before holding any oral proceedings (A.R.S. § 41-1022).

NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 1. BOARD OF ACCOUNTANCY

PREAMBLE

1. Register citation and date for the original Notice of Proposed Rulemaking:

Notice of Proposed Rulemaking: 9 A.A.R. 3104, October 17, 2003

2. Sections Affected

Rulemaking Action

R4-1-101

Amend

R4-1-115.03

New Section

R4-1-454

New Section

3. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific)

Authorizing statutes: A.R.S. § 32-703(B)(13)

Implementing statutes: A.R.S. § 32-703(B)(8)

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Valerie M. Elliott, Executive Director

Address: Accountancy Board
100 N. 15th Ave., Ste. 165
Phoenix, AZ 85007

Telephone: (602) 364-0804

Fax: (602) 364-0903

E-mail: vme@mail.accountancy.state.az.us

5. An explanation of the rule, including the agency's reasons for initiating the rule:

The initiation of the rule is, in part, in response to a recommendation made the Auditor General in its last Sunset Review of the Board. The rule implements a peer review program which serves as an educational tool for registrants, and a means to ensure that the public receives quality performance from the professionals who are regulated by the Board.

6. An explanation of the substantial change which resulted in this supplemental notice:

The original proposed rule did not contain the language required by A.A.C. R1-1-414 (B) and (C) for incorporated by reference material. Also, the definitions for full disclosure compilation services and non-disclosure compilation services have been modified, and definitions have been added for educational enhancement review and PROAC. Finally, in addition to modifying the effective implementation date of the peer review program, an educational enhancement review provision and a record retention requirement have been added.

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

The proposed rule results directly from a recent statutory change in which the Board may require peer review on a general and random basis of the professional work of a registrant engaged in the practice of accounting. Every three years, registrants who perform restricted financial, full-disclosure compilation or non-disclosure compilation services will be required to undergo peer review and bear the burden of the cost. This proposed rule will benefit the public by

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increasing the monitoring and education of certified public accountants who perform restricted financial, full-disclosure compilation or non-disclosure compilation services.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Valerie M. Elliott, Executive Director
Address: Accountancy Board
100 N. 15th Ave., Ste. 165
Phoenix, AZ 85007
Telephone: (602) 364-0804
Fax: (602) 364-0903

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when and how persons may request an oral proceeding on the proposed rule:

Date: August 11, 2004
Time: 8:30 a.m.
Location: Accountancy Board
100 N. 15th Ave., Ste. 165
Phoenix, AZ 85007
Nature: Oral Proceeding

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

12. Incorporations by reference and their location in the rules:

Standards for Performing and Reporting on Peer Reviews, published June 1, 2003 by the American Institute of Certified Public Accountants, New York, New York 10036-8775 is referenced in R4-1-454(J) and Statements on Standards for Accounting and Review Services, published June 1, 2003 by the American Institute of Certified Public Accountants, New York, New York 10036-8775 is referenced in R4-1-101(5).

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 1. BOARD OF ACCOUNTANCY

ARTICLE 1. GENERAL

Section

R4-1-101. Definitions

ARTICLE 1. GENERAL

R4-1-101. Definitions

1. No change
2. No change
3. No change
4. No change
5. "Compilation services" has the same meaning as "compilation of financial statements" in section 100.04 of the State-ments on Standards for Accounting and Review Services, published June 1, 2003 by the American Institute of Certi-fied Public Accountants, New York, New York 10036-8775 (www.aicpa.org), which is incorporated by reference in this subsection. This incorporation by reference does not include any later amendments or editions. The incorporated material is available for inspection and copying at the Board's office.
- ~~5-6.~~ No change
7. "Educational Enhancement Review" means an assessment by the PROAC of one or more aspects of the professional work of a firm that is registered with the Board to practice public accounting and performs only nondisclosure compi-lation services, in which the standards in R4-1-454(J) are persuasive but not conclusive.
- ~~6-8.~~ No change
- ~~7-9.~~ No change
10. "Full disclosure compilation services" means a compilation of financial statements that does not omit substantially all disclosures.
11. "Non disclosure compilations services" means a compilation of financial statements that omits substantially all dis-

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closures.

~~8-12.~~ No change

~~13.~~ "Peer Review" means an assessment of one or more aspects of the professional work of a firm that is registered with the Board to practice public accounting and performs restricted financial, full-disclosure compilation, or nondisclosure compilation services, conducted in accordance with R4-1-454(J).

~~9-14.~~ No change

~~10-15.~~ "Practice of accounting" means the provision of any accounting services, including recording and summarizing financial transactions, analyzing and verifying financial information, reporting financial results to an employer, clients, or other parties and rendering of tax and management advisory services to an employer, clients, or other parties.
A.R.S. § 32-701.01(8) 32-701(10).

~~11-16.~~ No change

~~17.~~ "PROAC" means the Peer Review Oversight Advisory Committee established by R4-1-115.03.

~~12-18.~~ No change

~~13-19.~~ No change

R4-1-115.03. Peer Review Oversight Advisory Committee

A. The Board may appoint an advisory committee to monitor and conduct the peer review program. Upon appointment the committee shall:

1. Advise the Board on matters relating to the peer review program;
2. Report to the Board on the effectiveness of the peer review program;
3. Provide the Board with a list of firms that have participated in peer review;
4. Update the Board on the status of participating firms' compliance with the requirements of R4-1-454;
5. Recommend to the Board procedures and standards for fulfilling its role, including phase-in procedures for implementing the peer review program and minimum standards for performing and reporting on peer review;
6. Maintain documents in a manner that preserves the confidentiality of individuals and business organizations, including information, pertaining to a specific business organization, that may be disclosed to the committee during the course of its business;
7. Report to the Board and obtain approval of any modification to the peer review program; and
8. Assess all applications of review teams and national organizations participating in the peer review program and make recommendations regarding Board approval or denial of the applications.

B. The Board, may accept, reject, or modify recommendations of the Peer Review Oversight Advisory Committee.

ARTICLE 4. REGULATION

R4-1-454. Peer Review

A. Effective for registrations on or after January 1, 2005, each firm, as defined in A.R.S. § 32-701(8), that performs restricted financial services or full disclosure compilation services shall complete a peer review within the three years immediately preceding the firm's registration date.

1. A firm shall submit to the Peer Review Oversight Advisory Committee a peer review report and any additional, related documentation requested by the Peer Review Oversight Advisory Committee. PROAC shall not require the submission of working papers related to the peer review process.
2. A firm with a registration due date that falls on January 1, 2005 or any date up to and including June 30, 2006 shall submit the initial peer review report by June 30, 2006.
3. A firm with a registration due date after June 30, 2006 shall submit the peer review report on the registration due date with other renewal documents.
4. Upon a showing of good cause, the Board shall grant the firm an extension of time for completing the peer review or submitting the peer review report.

B. Beginning January 1, 2005, if the only services performed by a firm involving financial statements are nondisclosure compilation services, the Board may request, on a random basis, as a condition for initial or renewal registration, that the firm provide a peer review report and any additional, related documentation, completed within the three years immediately preceding the firm's registration date.

1. If the firm did not complete a peer review within the three years immediately preceding the firm's registration date, PROAC shall request that the firm provide reports and financial statements from two separate nondisclosure compilation engagements, performed within the two years immediately preceding the firm's registration date, for an Educational Enhancement Review by PROAC;
2. If the results of the Educational Enhancement Review indicate deficient work, the Board may do any of the following:
 - a. Educate the firm by informing it of or referencing it to the current and appropriate reporting requirements;
 - b. Educate the firm by informing it how to enhance its reporting and financial presentation;
 - c. Require the firm to undergo peer review prior to its next renewal registration.
3. If the results of the Educational Enhancement Review do not indicate deficient work, the PROAC shall recommend to the Board that it accept the firm's Educational Enhancement Review and that the firm be notified of its compliance

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with this section.

- C.** Peer reviews shall be conducted by a peer reviewer or a review team that is approved by the Board or its authorized agent. In approving a peer reviewer or a review team, the Board or its authorized agent shall ensure that each peer reviewer or member of a review team holds a certificate or license in good standing to practice public accounting, and that they are not affiliated with the firm under review.
- D.** A firm may obtain a peer review and the corresponding report from a national organization approved by the Board or its authorized agent, because the organization performs peer reviews that comply with the standards in this section. In approving a national organization, the Board determines whether the organization performs peer reviews that comply with this section.
- E.** PROAC shall review the peer review report to determine whether the firm is complying with the standards in subsection (J). If the results of peer review indicate that a firm is complying with the standards in subsection (J), the PROAC shall recommend to the Board that it accept the firm's peer review and that the firm be notified of its compliance with this section.
- F.** If the results of peer review indicate that a firm is not complying with the standards in subsection (J):
1. The Board shall direct the Peer Review Oversight Advisory Committee to obtain relevant reports and letters of comment, and perform any follow-up action required as a consequence of the deficiencies. PROAC shall retain all documents obtained until the firm completes and the Board accepts the firm's next peer review.
 2. Based on the need to gather additional information, the Board may direct the firm to appear before the Peer Review Oversight Advisory Committee for an interview and examination of peer review results. If, after the interview, the Peer Review Oversight Advisory Committee determines that the firm has not corrected deficiencies, the PROAC shall refer the matter to the Board.
 3. Based upon review of the Committee's recommendation, the Board may take disciplinary action as defined in A.R.S. § 32-701(6).
- G.** Information discovered solely as a result of a peer review is not grounds for suspension or revocation of a certificate.
- H.** Failure of a firm to complete a peer review under this section constitutes grounds for revocation or suspension of a certificate, after notice and opportunity for a hearing, unless the Board determines that there is good cause for the failure.
- I.** Exemptions: A firm is exempt from the requirements of this section if the firm submits to the Board a written statement that it meets at least one of the following grounds for exemption:
1. The firm has not previously practiced public accounting in this state, any other state, or a foreign country and the firm will undergo a peer review within 18 months of initial registration.
 2. The firm submits to the Board an affidavit, on a form prescribed by the Board, which states that all of the following apply:
 - a. Within the previous 3 years, the firm did not undertake any engagement that resulted in the firm issuing a restricted financial services, full disclosure, or non-disclosure compilation;
 - b. The firm agrees to notify the Board within 90 days after accepting a restricted financial services or full disclosure compilation services engagement and will undergo a peer review within 18 months from the year-end of the engagement accepted; and
 - c. The firm agrees to notify the Board within 90 days after accepting a nondisclosure compilation engagement.
- J.** Each firm, review team, and member of a review team shall comply with the Standards for Performing and Reporting on Peer Reviews, published June 1, 2003 by the American Institute of Certified Public Accountants, New York, New York 10036-8775 (www.aicpa.org), which is incorporated by reference in this subsection. This incorporation by reference does not include any later amendments or editions. The incorporated material is available for inspection and copying at the Board's office.
- K.** Peer Review Record Retention. Firms shall maintain for five years and provide the Board upon request the following documents for the peer reviews required by this section: peer review report, final acceptance letter, letter of comment, corrective action, and letter of response.

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TITLE 17. TRANSPORTATION

CHAPTER 3. DEPARTMENT OF TRANSPORTATION – HIGHWAYS

PREAMBLE

1. Register citation and date for the original Notice of Proposed Rulemaking:

Notice of Rulemaking Docket Opening: 9 A.A.R. 1307, April 25, 2003
Notice of Proposed Rulemaking: 9 A.A.R.1929, June 20, 2003
Notice of Public Information: 9 A.A.R. 3525, August 8, 2003
Notice of Public Information: 10 A.A.R. 260, January 16, 2004

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2. Sections Affected

R17-3-603

Rulemaking Action

New Section

3. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. §§ 28-366; 28-7908

Implementing statute: A.R.S. §§ 28-7901 through 28-7915

4. The name and address of agency personnel with whom persons may communicate regarding the rule:

Name: Wendy S. LeStarge, Manager

Address: Arizona Department of Transportation
206 S. 17th Ave., Mail Drop 004R
Phoenix, AZ 85007

Telephone: (602) 712-4142

Fax: (602) 712-3380

E-mail: wlestage@dot.state.az.us

5. An explanation of the rule, including the agency's reasons for initiating the rule:

The Arizona Department of Transportation ("ADOT") is amending its outdoor advertising control rules. This rulemaking arises from proposed agency action in the five-year review report approved by the Governor's Regulatory Review Council on May 2, 2000 (F-00-0402). In response to comments received, ADOT removed R17-3-603, General Prohibitions, from the final rulemaking. The Notice of Final Rulemaking was filed separately with the Governor's Regulatory Review Council, in order to continue progress on amending rules that have not been changed since 1977.

ADOT is responding to comments about enforcing local ordinances on outdoor advertising control. The provisions of the Notice of Supplemental Proposed Rulemaking are supported by the Code of Federal Regulations, 23 C.F.R. §§ 750.703(e); 750.705(d)

6. An explanation of the substantial change which resulted in this supplemental notice:

ADOT added the following provision in General Prohibitions, R17-3-603(5): "A sign is unlawful if the sign becomes unlawful under a local jurisdiction's ordinances."

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

ADOT is statutorily mandated to regulate outdoor advertising along the highways. This rulemaking does not create any increased costs for ADOT other than the continuing costs of employee salaries. ADOT does not incur any reduction of federal funding because of outdoor advertising laws or rules.

Businesses that use outdoor advertising along the state's highways will have increased costs due to the increased permit fees. Clearly defined restrictions may create a not-readily-quantifiable cost by limiting where a sign can be placed. The benefit to businesses, from revenue from selling products and lease income from the signs, should still outweigh any costs. Political subdivisions will likely benefit because of possible joint enforcement of local ordinances on outdoor advertising control.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Wendy S. LeStarge, Manager

Address: Arizona Department of Transportation
206 S. 17th Ave., Mail Drop 004R
Phoenix, AZ 85007

Telephone: (602) 712-4142

Fax: (602) 712-3380

E-mail: wlestage@dot.state.az.us

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date: August 10, 2004

Time: 10:30 a.m.

Location: Arizona Department of Transportation

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206 S. 17th Ave.
Executive Conference Room
Phoenix, AZ 85007

Nature: Oral proceeding on the Notice of Supplemental Proposed Rulemaking

Close of record: The public comment period will close at 4:30 p.m. on Wednesday, August 11, 2004.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

12. Incorporations by reference and their location in the rules:

None

13. The full text of the changes follows:

TITLE 17. TRANSPORTATION

CHAPTER 3. DEPARTMENT OF TRANSPORTATION – HIGHWAYS

ARTICLE 6. OUTDOOR ADVERTISING CONTROL

Section

R17-3-603. General Prohibitions

ARTICLE 6. OUTDOOR ADVERTISING CONTROL

R17-3-603. General Prohibitions

In addition to the restrictions in A.R.S. §§ 28-7901 through 28-7915, the following restrictions apply:

1. It is unlawful to place, maintain, or repair a sign located on a freeway from any portion of the right-of-way of the freeway.
2. It is unlawful to place, maintain, or repair a sign, located on a highway other than a freeway, from any portion of the right-of-way of the highway unless:
 - a. There is no other access available, and
 - b. The sign owner obtains an encroachment permit as prescribed under R17-3-702 from the Department before the work is performed.
3. A sign requiring a permit is unlawful if the permit is not renewed within 30 days after the permit's expiration date.
4. A sign is unlawful if the permit becomes void, as stated in R17-3-610(E).
5. A sign is unlawful if the sign becomes unlawful under a local jurisdiction's ordinances.